

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE ANDY WARHOL FOUNDATION FOR THE VISUAL  
ARTS, INC.,

Plaintiff,

-against-

LYNN GOLDSMITH AND LYNN GOLDSMITH, LTD.,

Defendants.

No. 17-cv-02532-JGK

**DECLARATION OF LUKE NIKAS IN  
SUPPORT OF THE ANDY WARHOL  
FOUNDATION FOR THE VISUAL  
ARTS, INC.'S MOTION FOR  
SUMMARY JUDGMENT**

LYNN GOLDSMITH,

Counterclaim Plaintiff,

-against-

THE ANDY WARHOL FOUNDATION FOR THE VISUAL  
ARTS, INC.,

Counterclaim Defendant.

I, Luke Nikas, declare pursuant to 28 U.S.C. § 1746 as follows:

I am a partner in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP, attorneys for Plaintiff The Andy Warhol Foundation for the Visual Arts, Inc., and a member in good standing of the bar of New York. I submit this declaration in support of The Andy Warhol Foundation for the Visual Arts, Inc.'s Motion for Summary Judgment.

1. Attached hereto as Exhibit 1. is a true and correct copy of the Expert Report of Laura Paulson.
2. Attached hereto as Exhibit 2. is a true and correct copy of the Declaration of Neil Printz.

3. Attached hereto as Exhibit 3. is a true and correct copy of *A Conversation with Andy Warhol* by Gerard Malanga, stamped as Deposition Exhibit Warhol 104.

4. Attached hereto as Exhibit 4. is a true and correct copy of excerpts of the transcript of the February 16, 2018 deposition of Gerard Malanga.

5. Attached hereto as Exhibit 5. is a true and correct copy of the Expert Report of Dr. Thomas Crow.

6. Attached hereto as Exhibit 6. is a true and correct copy of excerpts of the transcript of the June 27, 2018 deposition of Dr. Thomas Crow.

7. Attached hereto as Exhibit 7. is a true and correct copy of the “about the book” section of Lynn Goldsmith’s website, [www.lynngoldsmith.com](http://www.lynngoldsmith.com), regarding Goldsmith’s book *PhotoDiary*, stamped as Deposition Exhibit Warhol 9.

8. Attached hereto as Exhibit 8. is a true and correct copy of the Amended Answer of Defendants, Amended Counterclaim of Lynn Goldsmith (Dkt. 20) in the above-captioned action.

9. Attached hereto as Exhibit 9. is a true and correct copy of the “about us” section of the Morrison Hotel Gallery’s website, [www.morrisonhotelgallery.com](http://www.morrisonhotelgallery.com), stamped as Deposition Exhibit Warhol 85.

10. Attached hereto as Exhibit 10. is a true and correct copy of excerpts of the document Bates numbered LG00000151–58, stamped as Deposition Exhibit Warhol 3.

11. Attached hereto as Exhibit 11. is a true and correct copy of the “Lynn Goldsmith Book Signing: Friday, May 23rd” section of the Analogue Gallery’s website, [www.analoguegallery.com](http://www.analoguegallery.com).

12. Attached hereto as Exhibit 12. is a true and correct copy of excerpts of the transcript of the January 18, 2018 deposition of Lynn Goldsmith.

13. Attached hereto as Exhibit 13. is a true and correct copy of the description of *PhotoDiary* by Lynn Goldsmith from Lynn Goldsmith's website, [www.lynngoldsmith.com](http://www.lynngoldsmith.com), stamped as Deposition Exhibit Warhol 10.

14. Attached hereto as Exhibit 14. is a true and correct copy of excerpts of the document Bates numbered LG00000142–50, stamped as Deposition Exhibit Warhol 2.

15. Attached hereto as Exhibit 15. is a true and correct copy of excerpts of the transcript of the February 23, 2018 deposition of Myra Kreiman.

16. Attached hereto as Exhibit 16. is a true and correct copy of excerpts of Lynn Goldsmith's page from the website [www.gofundme.com](http://www.gofundme.com), stamped as Deposition Exhibit Warhol 94.

17. Attached hereto as Exhibit 17. is a true and correct copy of a January 6, 2015 post made on the Facebook page for "Lynn Goldsmith Photography," which was attached as Exhibit B to the Complaint (Dkt. 6-2) in the above-captioned action.

18. Attached hereto as Exhibit 18. is a true and correct copy of a January 5, 2015 post made on the Facebook page for "Lynn Goldsmith Photography," which was attached as Exhibit C to the Complaint (Dkt. 6-3) in the above-captioned action.

19. Attached hereto as Exhibit 19. is a true and correct copy of an April 9, 2017 post made on Lynn Goldsmith's Facebook page, stamped as Deposition Exhibit Warhol 25.

20. Attached hereto as Exhibit 20. is a true and correct copy of the document Bates numbered LG00000029, stamped as Deposition Exhibit Warhol 22.

21. Attached hereto as Exhibit 21. is a true and correct copy of the document Bates numbered LG00000160, stamped as Deposition Exhibit Warhol 15.

22. Attached hereto as Exhibit 22. is a true and correct copy of the document Bates numbered LG00000161, stamped as Deposition Exhibit Warhol 16.

23. Attached hereto as Exhibit 23. is a true and correct copy of the document Bates numbered LG00000162, stamped as Deposition Exhibit Warhol 17.

24. Attached hereto as Exhibit 24. is a true and correct copy of the document Bates numbered LG00000163, stamped as Deposition Exhibit Warhol 18.

25. Attached hereto as Exhibit 25. is a true and correct copy of the document Bates numbered LG00000164, stamped as Deposition Exhibit Warhol 19.

26. Attached hereto as Exhibit 26. is a true and correct copy of the document Bates numbered LG00000165, stamped as Deposition Exhibit Warhol 12.

27. Attached hereto as Exhibit 27. is a true and correct copy of the document Bates numbered LG00000166, stamped as Deposition Exhibit Warhol 13.

28. Attached hereto as Exhibit 28. is a true and correct copy of the document Bates numbered LG00000167, stamped as Deposition Exhibit Warhol 14.

29. Attached hereto as Exhibit 29. is a true and correct copy of the document Bates numbered LG00000168, stamped as Deposition Exhibit Warhol 11.

30. Attached hereto as Exhibit 30. is a true and correct copy of the document Bates numbered LG00000169, stamped as Deposition Exhibit Warhol 21.

31. Attached hereto as Exhibit 31. is a true and correct copy of the document Bates numbered LG00000170, stamped as Deposition Exhibit Warhol 20.

32. Attached hereto as Exhibit 32. is a true and correct copy of an article entitled “The Naughty Prince of Rock” published in Newsweek on December 21, 1981, stamped as Deposition Exhibit Warhol 105.

33. Attached hereto as Exhibit 33. is a true and correct copy of a series of photographs of Prince attributed to Allen Beaulieu.

34. Attached hereto as Exhibit 34. is a true and correct copy of a photograph of Prince attributed to Paul Nitkin.

35. Attached hereto as Exhibit 35. is a true and correct copy of an LGI Invoice to *Vanity Fair*, stamped as Deposition Exhibit Warhol 107.

36. Attached hereto as Exhibit 36. is a true and correct copy of the document Bates numbered LG00000064, stamped as Deposition Exhibit Warhol 23.

37. Attached hereto as Exhibit 37. is a true and correct copy of the document Bates numbered LG00000004, stamped as Deposition Exhibit LG 10.

38. Attached hereto as Exhibit 38. is a true and correct copy of the document Bates numbered LG00000007, stamped as Deposition Exhibit LG 11.

39. Attached hereto as Exhibit 39. is a true and correct copy of the document Bates numbered AWF00001992, stamped as Deposition Exhibit Warhol 31.

40. Attached hereto as Exhibit 40. is a true and correct copy of the document Bates numbered AWF00001993, stamped as Deposition Exhibit Warhol 32.

41. Attached hereto as Exhibit 41. is a true and correct copy of the document Bates numbered AWF00001994, stamped as Deposition Exhibit Warhol 30.

42. Attached hereto as Exhibit 42. is a true and correct copy of the document Bates numbered AWF00001995, stamped as Deposition Exhibit Warhol 33.

43. Attached hereto as Exhibit 43. is a true and correct copy of the document Bates numbered AWF00001996, stamped as Deposition Exhibit Warhol 29.

44. Attached hereto as Exhibit 44. is a true and correct copy of the document Bates numbered AWF00001997, stamped as Deposition Exhibit Warhol 34.

45. Attached hereto as Exhibit 45. is a true and correct copy of the document Bates numbered AWF00001998, stamped as Deposition Exhibit Warhol 35.

46. Attached hereto as Exhibit 46. is a true and correct copy of the document Bates numbered AWF00001999, stamped as Deposition Exhibit Warhol 36.

47. Attached hereto as Exhibit 47. is a true and correct copy of the document Bates numbered AWF00002000, stamped as Deposition Exhibit Warhol 37.

48. Attached hereto as Exhibit 48. is a true and correct copy of the document Bates numbered AWF00002001, stamped as Deposition Exhibit Warhol 38.

49. Attached hereto as Exhibit 49. is a true and correct copy of the document Bates numbered AWF00002002, stamped as Deposition Exhibit Warhol 27.

50. Attached hereto as Exhibit 50. is a true and correct copy of the document Bates numbered AWF00002003, stamped as Deposition Exhibit Warhol 39.

51. Attached hereto as Exhibit 51. is a true and correct copy of the document Bates numbered AWF00002004, stamped as Deposition Exhibit Warhol 40.

52. Attached hereto as Exhibit 52. is a true and correct copy of the document Bates numbered AWF00002005, stamped as Deposition Exhibit Warhol 41.

53. Attached hereto as Exhibit 53. is a true and correct copy of the document Bates numbered AWF00002006, stamped as Deposition Exhibit Warhol 42.

54. Attached hereto as Exhibit 54. is a true and correct copy of the document Bates numbered AWF00002007, stamped as Deposition Exhibit Warhol 26.

55. Attached hereto as Exhibit 55. is a true and correct copy of Plaintiff The Andy Warhol Foundation for the Visual Arts, Inc.'s Responses and Objections to Defendants' Requests for Admission, dated May 21, 2018.

56. Attached hereto as Exhibit 56. is a true and correct copy of excerpts of the November 1984 issue of *Vanity Fair*, stamped as Deposition Exhibit LG 91.

57. Attached hereto as Exhibit 57. is a true and correct copy of excerpts of the transcript of the February 8, 2018 deposition of Kathleen C. Maurer.

58. Attached hereto as Exhibit 58. is a true and correct copy of the document Bates numbered AWF00001784, stamped as Deposition Exhibit LG 105.

59. Attached hereto as Exhibit 59. is a true and correct copy of the document Bates numbered AWF00002232, stamped as Deposition Exhibit LG 104.

60. Attached hereto as Exhibit 60. is a true and correct copy of the document Bates numbered AWF00001841, stamped as Deposition Exhibit LG 106.

61. Attached hereto as Exhibit 61. is a true and correct copy of the document Bates numbered AWF00001794, stamped as Deposition Exhibit LG 107.

62. Attached hereto as Exhibit 62. is a true and correct copy of the document Bates numbered AWF00001819–34, stamped as Deposition Exhibit LG 108.

63. Attached hereto as Exhibit 63. is a true and correct copy of the document Bates numbered AWF00001807–08, stamped as Deposition Exhibit LG 109.

64. Attached hereto as Exhibit 64. is a true and correct copy of the document Bates numbered AWF00001918–26, stamped as Deposition Exhibit LG 110.

65. Attached hereto as Exhibit 65. is a true and correct copy of the document Bates numbered AWF00001805, stamped as Deposition Exhibit LG 111.

66. Attached hereto as Exhibit 66. is a true and correct copy of the document Bates numbered AWF00001798, stamped as Deposition Exhibit LG 112.

67. Attached hereto as Exhibit 67. is a true and correct copy of the document Bates numbered AWF00001802–04.

68. Attached hereto as Exhibit 68. is a true and correct copy of the document Bates numbered AWF00001843, stamped as Deposition Exhibit LG 113.

69. Attached hereto as Exhibit 69. is a true and correct copy of a price database for *Prince* by Andy Warhol from [www.artnet.com](http://www.artnet.com), stamped as Deposition Exhibit LG 90.

70. Attached hereto as Exhibit 70. is a true and correct copy of the document Bates numbered AWF00000001–18.

71. Attached hereto as Exhibit 71. is a true and correct copy of the document Bates numbered AWF00001941–47.

72. Attached hereto as Exhibit 72. is a true and correct copy of the document Bates numbered AWF00001680–86.

73. Attached hereto as Exhibit 73. is a true and correct copy of a Warhol/‘Prince’ Report prepared by Artists Rights Society, stamped as Deposition Exhibit LG 31.

74. Attached hereto as Exhibit 74. is a true and correct copy of excerpts of an article entitled “Andy Warhol the Complete Commissioned Magazine Work,” stamped as Deposition Exhibit LG 43.

75. Attached hereto as Exhibit 75. is a true and correct copy of an email chain dated February 14, 2013 between Samo Gale and Janet Hicks, stamped as Deposition Exhibit LG 48.



76. Attached hereto as Exhibit 76. is a true and correct copy of an invoice from Artists Rights Society to the Frist Center for the Visual Arts, stamped as Deposition Exhibit LG 40.

77. Attached hereto as Exhibit 77. is a true and correct copy of an invoice from Artists Rights Society to the Galeria Starmach, stamped as Deposition Exhibit LG 60.

78. Attached hereto as Exhibit 78. is a true and correct copy of the document Bates numbered AWF00001057–58, stamped as Deposition Exhibit LG 94.

79. Attached hereto as Exhibit 79. is a true and correct copy of excerpts of a document entitled *Andy Warhol Prints, A Catalogue Raisonne 1962–1987*, stamped as Deposition Exhibit LG 95.

80. Attached hereto as Exhibit 80. is a true and correct copy of the document Bates numbered LG00000003, stamped as Deposition Exhibit Warhol 92.

81. Attached hereto as Exhibit 81. is a true and correct copy of the search results for “lynn goldsmith” from the website [www.1stdibs.com](http://www.1stdibs.com), as accessed on June 8, 2018.

82. Attached hereto as Exhibit 82. is a true and correct copy of the page for Lynn Goldsmith from the website [www.artsy.net](http://www.artsy.net), as accessed on June 7, 2018.

83. Attached hereto as Exhibit 83. is a true and correct copy of the search results for “Lynn Goldsmith” appearing on the website [www.artnet.com](http://www.artnet.com).

84. Attached hereto as Exhibit 84. is a true and correct copy of the document Bates numbered LG00000098, stamped as Deposition Exhibit Warhol 44.

85. Attached hereto as Exhibit 85. is a true and correct copy of the document Bates numbered LG00000201, stamped as Deposition Exhibit Warhol 47.

86. Attached hereto as Exhibit 86. is a true and correct copy of the document Bates numbered LG00000104–07, stamped as Deposition Exhibit Warhol 46.

87. Attached hereto as Exhibit 87. is a true and correct copy of the document Bates numbered LG00000204, stamped as Deposition Exhibit Warhol 50.

88. Attached hereto as Exhibit 88. is a true and correct copy of the document Bates numbered LG00000115–17, stamped as Deposition Exhibit Warhol 54.

89. Attached hereto as Exhibit 89. is a true and correct copy of the document Bates numbered LG00000207, stamped as Deposition Exhibit Warhol 56.

90. Attached hereto as Exhibit 90. is a true and correct copy of the document Bates numbered LG00000118–20, stamped as Deposition Exhibit Warhol 57.

91. Attached hereto as Exhibit 91. is a true and correct copy of the document Bates numbered LG00000208, stamped as Deposition Exhibit Warhol 58.

92. Attached hereto as Exhibit 92. is a true and correct copy of the document Bates numbered LG00000124–27, stamped as Deposition Exhibit Warhol 62.

93. Attached hereto as Exhibit 93. is a true and correct copy of the document Bates numbered LG00000211, stamped as Deposition Exhibit Warhol 63.

94. Attached hereto as Exhibit 94. is a true and correct copy of the document Bates numbered LG00000212, stamped as Deposition Exhibit Warhol 64.

95. Attached hereto as Exhibit 95. is a true and correct copy of the document Bates numbered LG00000131–33, stamped as Deposition Exhibit Warhol 66.

96. Attached hereto as Exhibit 96. is a true and correct copy of the document Bates numbered LG00000215, stamped as Deposition Exhibit Warhol 69.

97. Attached hereto as Exhibit 97. is a true and correct copy of the document Bates numbered LG00000134–36, stamped as Deposition Exhibit Warhol 71.

98. Attached hereto as Exhibit 98. is a true and correct copy of the document Bates numbered LG00000217, stamped as Deposition Exhibit Warhol 72.

99. Attached hereto as Exhibit 99. is a true and correct copy of the document Bates numbered LG00000137–41, stamped as Deposition Exhibit Warhol 74.

100. Attached hereto as Exhibit 100. is a true and correct copy of the document Bates numbered LG00000219, stamped as Deposition Exhibit Warhol 75.

101. Attached hereto as Exhibit 101. is a true and correct copy of the document Bates numbered LG00000220, stamped as Deposition Exhibit Warhol 76.

102. Attached hereto as Exhibit 102. is a true and correct copy of the document Bates numbered LG00000221, stamped as Deposition Exhibit Warhol 77.

103. Attached hereto as Exhibit 103. is a true and correct copy of the document Bates numbered LG00000222, stamped as Deposition Exhibit Warhol 78.

104. Attached hereto as Exhibit 104. is a true and correct copy of the document Bates numbered LG00000223, stamped as Deposition Exhibit Warhol 79.

105. Attached hereto as Exhibit 105. is a true and correct copy of the document Bates numbered LG00000224, stamped as Deposition Exhibit Warhol 80.

106. Attached hereto as Exhibit 106. is a true and correct copy of the document Bates numbered LG00000226, stamped as Deposition Exhibit Warhol 82.

107. Attached hereto as Exhibit 107. is a true and correct copy of the document Bates numbered LG00000225, stamped as Deposition Exhibit Warhol 81.

108. Attached hereto as Exhibit 108. is a true and correct copy of the document Bates numbered LG00000101, stamped as Deposition Exhibit Warhol 45.

109. Attached hereto as Exhibit 109. is a true and correct copy of the document Bates numbered LG00000203, stamped as Deposition Exhibit Warhol 49.

110. Attached hereto as Exhibit 110. is a true and correct copy of the document Bates numbered LG00000108–10, stamped as Deposition Exhibit Warhol 51.

111. Attached hereto as Exhibit 111. is a true and correct copy of the document Bates numbered LG00000205, stamped as Deposition Exhibit Warhol 52.

112. Attached hereto as Exhibit 112. is a true and correct copy of the document Bates numbered LG00000206, stamped as Deposition Exhibit Warhol 55.

113. Attached hereto as Exhibit 113. is a true and correct copy of the document Bates numbered LG00000209, stamped as Deposition Exhibit Warhol 59.

114. Attached hereto as Exhibit 114. is a true and correct copy of the document Bates numbered LG00000128–30, stamped as Deposition Exhibit Warhol 65.

115. Attached hereto as Exhibit 115. is a true and correct copy of the document Bates numbered LG00000213, stamped as Deposition Exhibit Warhol 67.

116. Exhibit 116., attached hereto, intentionally left blank.

117. Attached hereto as Exhibit 117. is a true and correct copy of the document Bates numbered LG00000214, stamped as Deposition Exhibit Warhol 68.

118. Attached hereto as Exhibit 118. is a true and correct copy of the document Bates numbered LG00000218, stamped as Deposition Exhibit Warhol 73.

119. Attached hereto as Exhibit 119. is a true and correct copy of the document Bates numbered LG00000227, stamped as Deposition Exhibit Warhol 83.

120. Attached hereto as Exhibit 120. is a true and correct copy of the document Bates numbered LG00000228, stamped as Deposition Exhibit Warhol 84.

121. Attached hereto as Exhibit 121. is a true and correct copy of an invoice from Artists Rights Society to Condé Nast, dated April 22, 2013, stamped as Deposition Exhibit LG 44.

122. Attached hereto as Exhibit 122. is a true and correct copy of an invoice from Artists Rights Society to Condé Nast, dated June 15, 2016, stamped as Deposition Exhibit LG 52.

123. Attached hereto as Exhibit 123. is a true and correct copy of excerpts of a page from [www.christies.com](http://www.christies.com) regarding a Post-War and Contemporary Art Evening Sale dated May 17, 2018 in New York.

124. Attached hereto as Exhibit 124. is a true and correct copy of excerpts of a page from [www.christies.com](http://www.christies.com) regarding a Post-War and Contemporary Art Morning Session dated May 18, 2018 in New York.

125. Attached hereto as Exhibit 125. is a true and correct copy of excerpts of a page from [www.sothebys.com](http://www.sothebys.com) regarding a Contemporary Evening Auction dated May 16, 2018 in New York.

126. Attached hereto as Exhibit 126. is a true and correct copy of excerpts of a page from [www.sothebys.com](http://www.sothebys.com) regarding a Contemporary Day Auction dated May 17, 2018 in New York.

127. Attached hereto as Exhibit 127. is a true and correct copy of excerpts of a page from [www.phillips.com](http://www.phillips.com) regarding a 20th Century & Contemporary Art Evening Sale dated May 17, 2018 in New York.

128. Attached hereto as Exhibit 128. is a true and correct copy of excerpts of a page from [www.phillips.com](http://www.phillips.com) regarding a 20th Century & Contemporary Art Morning Session dated May 16, 2018 in New York.

129. Attached hereto as Exhibit 129. is a true and correct copy of Analogue Gallery's page on the website [www.twitter.com](http://www.twitter.com), as accessed January 13, 2018, stamped as Deposition Exhibit Warhol 88.

130. Attached hereto as Exhibit 130. is a true and correct copy of the "about us" section of Richard Goodall Gallery's website, [www.richardgoodallgallery.com](http://www.richardgoodallgallery.com), stamped as Deposition Exhibit Warhol 89.

131. Attached hereto as Exhibit 131. is a true and correct copy of the "about" section of Blender Gallery's website, [www.blendergallery.com](http://www.blendergallery.com), stamped as Deposition Exhibit Warhol 90.

132. Attached hereto as Exhibit 132. is a true and correct copy of the "History of Guernsey's" section of Guernsey's website, [www.guernseys.com](http://www.guernseys.com).

133. Attached hereto as Exhibit 133. is a true and correct copy of A Gallery's description of Lynn Goldsmith appearing on the website [www.agallery.com](http://www.agallery.com).

134. Attached hereto as Exhibit 134. is a true and correct copy of the document Bates numbered CN023, stamped as Deposition Exhibit LG 120.

135. Attached hereto as Exhibit 135. is a true and correct copy of the document Bates numbered CN027.

136. Attached hereto as Exhibit 136. is a true and correct copy of excerpts of the transcript of the March 15, 2018 deposition of Chris Donnellan.

137. Attached hereto as Exhibit 137. is a true and correct copy of excerpts of *Genius of Prince*.

138. Attached hereto as Exhibit 138. is a true and correct copy of excerpts of the transcript of the February 6, 2018 deposition of Adrienne Fields.

139. Attached hereto as Exhibit 139. is a true and correct copy of the Expert Report of Jeffrey Sedlik.

140. Attached hereto as Exhibit 140. is a true and correct copy of excerpts of the transcript of the June 19, 2018 deposition of Jeffrey Sedlik.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, New York  
October 12, 2018

/s/ Luke Nikas

Luke Nikas